

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ELAINE ARMSTEAD)	
)	
Plaintiff,)	CIVIL ACTION FILE
)	NO. 1:14-CV-586-WSD
v.)	
)	ATLANTA, GEORGIA
ALLSTATE PROPERTY & CASUALTY)	
INSURANCE COMPANY)	
)	
Defendant.)	
_____)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE WILLIAM S. DUFFEY, JR.,
UNITED STATES DISTRICT JUDGE

PRETRIAL CONFERENCE
Thursday, July 7, 2016

APPEARANCES OF COUNSEL:

For the Plaintiff:	THE RUSSELL'S LAW FIRM PLC (By: Sandra Lee Finch)
For the Defendant:	WEBB ZSCHUNKE NEARY & DIKEMAN LLP (By: Marvin Dewayne Dikeman Melissa Cordell Patton)

*Proceedings recorded by mechanical stenography
and computer-aided transcript produced by*
NICHOLAS A. MARRONE, RMR, CRR
1714 U. S. Courthouse
75 Ted Turner Drive, S.W.
Atlanta, GA 30303
(404) 215-1486

1 Thursday Morning Session

2 July 7, 2016

3 9:31 a.m.

4 -- -- --

5 P R O C E E D I N G S

6 -- -- --

7 (In chambers by teleconference:)

8 THE COURT: Good morning.

9 MS. FINCH: Good morning.

10 MR. DIKEMAN: Good morning, Judge.

11 MS. PATTON: Good morning.

12 THE COURT: This is the further pretrial conference
13 in Armstead versus Allstate.

14 Ms. Finch, are you on for the plaintiff?

15 MS. FINCH: Yes, I am. Good morning.

16 THE COURT: Good morning.

17 And Mr. Dikeman and Ms. Patton, are you on for
18 Allstate?

19 MR. DIKEMAN: Yes, Your Honor.

20 MS. PATTON: Yes.

21 THE COURT: Well, as you know, we had a complete
22 pretrial conference in the case on March 9th where
23 I completed all the things that I would normally go over in a
24 pretrial conference.

25 I set this because I knew that there might be some

1 things that needed to be considered as a result of the delay
2 of the case when we postponed and continued the trial.
3 I just thought we needed to protect some time to consider
4 anything that arose during that period. So I set this
5 conference.

6 But we have had the ability to address all of the
7 pending matters in written orders. There will be orders
8 entered on the remaining pending matters today, so you will
9 have those in writing, and that will include an order on the
10 motion to amend the pretrial order. So you will get that
11 today.

12 And that's -- so I don't have anything to go over
13 today because we have been able to attend to all of the
14 pending matters in written motions that I have issued.

15 But just because I don't have anything doesn't mean
16 that you might not have something that you want to
17 discuss. And while we are all together, let's do that.

18 MR. DIKEMAN: Your Honor, this is Marvin Dikeman.

19 I would like to inquire as to the status of the
20 documents used to question Mr. Gould and where they were
21 located.

22 THE COURT: Well, I have entered two orders on
23 that, and I haven't received a response to the order that
24 I entered, and I'm considering what to do on that.

25 MR. DIKEMAN: Okay.

1 MS. FINCH: And I'm plaintiff's counsel. I would
2 just like to know what the relevance is for that? I did file
3 my objection.

4 I did not receive Your Honor's order. I was flying
5 yesterday, Your Honor. I did not get to computer until
6 sometime after 4:00.

7 I had my iPhone with me while I was traveling, and
8 I was able to get some of the e-mails that were sent out, but
9 on my iPhone I can't open -- I couldn't open all of the
10 order; I could only open the first page of it.

11 And, of course, I had no computer to -- I had no
12 ability to respond, and I believe there was a due date of
13 5:00 yesterday. So there is no way I could have responded by
14 5:00.

15 THE COURT: Well, of course, I didn't know that
16 until right now. Nobody contacted us to say what your travel
17 arrangements were, that you didn't have any access to a
18 computer. If what you are asking -- and I haven't received
19 anything today yet.

20 But if you are saying that you need some additional
21 time to respond, I will give that to you.

22 MS. FINCH: Well, I would like some additional time
23 to respond. But I also have an objection, again, because
24 I really don't understand what the complaint is or what it is
25 that I'm responding to.

1 I have looked up the law on every possible way that
2 you could sanction me for this conduct, which appears that's
3 what -- that appears to be the intent of the Court. I don't
4 know. I'm trying to understand.

5 And without knowing what it is that you are
6 complaining I have done, I don't know how I'm supposed to
7 respond. And I feel like it's a due process issue.

8 THE COURT: Well, that's why you have options
9 available to you.

10 But the orders are clear. I have the authority
11 inherent, including authority from the Supreme Court just
12 this term, to manage matters that are assigned to me and over
13 which I preside.

14 I have reached a conclusion that a source of these
15 documents -- which I still don't know because that's all
16 I have asked you to provide -- may well impact the
17 admissibility, including of documents that are listed in this
18 motion -- in your request to amend the pretrial order.

19 And I don't know what you intend to do with those
20 documents, but one of the options available to me is if
21 I believe that documents were obtained wrongfully, that
22 I could exclude them from trial. Which is why I have ordered
23 you twice to provide just the factual information about the
24 origin of those documents, because I believe they may well
25 impact my decisions on evidentiary issues at trial.

1 And that's why I'm telling you one more time that
2 you are under a court order to provide the information that
3 I have requested. It is simply factual information about the
4 origin of the documents.

5 And if you want more time to provide it -- you have
6 now had since last Friday, it is Thursday -- but if you need
7 a little more time to do that, I'm willing to do that. But
8 you are under a court order to provide that information.

9 MS. FINCH: Well, I understand that, Judge,
10 respectfully.

11 And if it's to admit a document or to decide
12 whether you are going to admit or exclude a document, if
13 I could just have some idea as to which documents that you --
14 are you referring to -- because I am having trouble
15 understanding. It looks like you have already excluded all
16 of those documents.

17 THE COURT: Ms. Finch, I'm not negotiating with
18 you, and I'm sorry you are confused.

19 What is not confusing is the order for you to
20 provide information about the source of the documents that
21 you used during Mr. Gould's deposition. And you are under an
22 order to do that. You are going to have to decide how you
23 are going to respond to the Court's order.

24 If what you want is a little more time today to
25 provide the information, which is solely in your possession,

1 and the questions are not hard ones, then I will give you
2 more time, although I frankly don't think it's necessary.
3 But if you want it, I will give it to you.

4 But you are under an order of the Court to provide
5 the information, and you must.

6 MS. FINCH: Your Honor, if -- and I'm not going to
7 debate the merits with you. I will file a response.

8 But I'm just confused as to what -- if the
9 documents are already excluded, I don't understand how there
10 is any relevance whatsoever as to where the documents come
11 from.

12 THE COURT: Because this case, Ms. Finch, is fluid,
13 including your request to amend the pretrial order to address
14 the documents that are in issue, as I understand it.

15 And the fact is you are under an order to provide
16 information for me to manage this case, and --

17 MS. FINCH: Well, I have heard you state that, and
18 it's not that I don't understand that. I do understand that
19 you are telling me that I'm under an order, but your orders
20 have to be a valid, lawful order.

21 And if the order serves no purpose other than
22 you're just intending to sanction me, then I think I'm
23 required due process on that issue and I'm entitled to notice
24 of what it is you want to sanction me for, what conduct it is
25 you want to sanction me for.

1 And I have read the cases on this, and they all say
2 that I am entitled to a hearing.

3 THE COURT: You are. After I get the information
4 to determine the source of the documents, I have to decide --

5 MS. FINCH: I know, I --

6 THE COURT: Ms. Finch, I'm not going to argue this
7 anymore. You are under an order to provide the information.
8 You either provide it or you don't, and if you don't, then
9 I decide what to do.

10 MS. FINCH: Okay. Thank you, Your Honor.

11 THE COURT: Anything else?

12 MR. DIKEMAN: Not from Allstate, Your Honor.

13 THE COURT: Anything else from the plaintiff?

14 MS. FINCH: Just as far as the pretrial order goes,
15 there are something like a thousand pages in the claims file,
16 and in my motion to amend I think I included all of the --

17 THE COURT: Your motion to amend -- your motion to
18 amend is before the Court and we will issue an order on that
19 today.

20 MS. FINCH: Okay. Well, I had just a couple of
21 more exhibits that I pulled out of the claims file just
22 because I don't want to introduce the whole thousand pages.
23 Am I going to -- can I do that?

24 There is just a few more -- like I had 230 -- or
25 229 to 233, I believe it is. 229 to 233 are just exhibits

1 out of the claims file notebook that I labeled individually,
2 and I would like to add those to the list.

3 THE COURT: So you are amending your motion to
4 amend to amend?

5 MS. FINCH: Well, I have never had a trial before a
6 judge where you had to have every single exhibit labeled at
7 the trial individually. As long as you disclosed them, you
8 could use them.

9 And I didn't label these as individual documents.
10 They have been disclosed. They are Allstate's claims files,
11 but I decided to label them individually. In the course of
12 preparation of my outline, it made more sense to label them
13 individually as opposed to the way I had them labeled before.

14 THE COURT: I will take that --

15 MS. FINCH: It will be more helpful to the jury.

16 THE COURT: I will take that up at trial.

17 MS. FINCH: Okay.

18 THE COURT: Anything else?

19 All right. Well, thank you for being available,
20 and we will see you Monday morning.

21 MS. FINCH: Thank you.

22 MR. DIKEMAN: Thank you, Your Honor.

23 (Proceedings adjourn at 9:42 a.m.)
24
25

C E R T I F I C A T E

UNITED STATES OF AMERICA :
:
NORTHERN DISTRICT OF GEORGIA :

I, Nicholas A. Marrone, RMR, CRR, Official Court Reporter of the United States District Court for the Northern District of Georgia, do hereby certify that the foregoing 9 pages constitute a true transcript of proceedings had before the said Court, held in the city of Atlanta, Georgia, in the matter therein stated.

In testimony whereof, I hereunto set my hand on this, the 7th day of July, 2016.

/s/ Nicholas A. Marrone

NICHOLAS A. MARRONE, RMR, CRR
Registered Merit Reporter
Certified Realtime Reporter
Official Court Reporter
Northern District of Georgia